

ORDINANCE NO. 5813

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA ADDING CHAPTER 9.44 "COMMERCIAL  
CANNABIS BUSINESSES" TO TITLE 9 OF THE SANTA  
BARBARA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS  
FOLLOWS:

**SECTION 1.** This Ordinance shall be known and may be cited as the City of Santa  
Barbara Commercial Cannabis Regulation and Safety Ordinance.

**SECTION 2.** Chapter 9.44 is hereby added to Title 9 of the Santa Barbara  
Municipal Code, to read as follows:

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## **CHAPTER 9.44: COMMERCIAL CANNABIS BUSINESSES**

### **Sections:**

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| <b>9.44.130</b> | <b>Effect of State License Suspension, Revocation, or Termination.</b>   | <b>9.44.310</b> | <b>Operating Requirements for Cannabis Manufacturing Businesses.</b>              |
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#### **§9.44.010 Purpose and Intent.**

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use of cannabis for persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act ("AUMA" or "Proposition 64" passed by California voters in 2016), while imposing reasonable regulations on the use of land to protect the City's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Santa Barbara and to enforce rules and regulations consistent with state law. It is the further purpose of intent of this Chapter to require all commercial cannabis businesses to obtain and renew annually a permit to operate within Santa Barbara. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

#### **§9.44.020. Legal Authority.**

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, any subsequent state legislation and/or regulations regarding same, the City of Santa Barbara is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Santa Barbara to all commercial cannabis activity.

#### **§9.44.030. Commercial Cannabis Cultivation and Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.**

Except as specifically authorized in this Chapter or Section 30.185.250, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under California Business & Professions Code section 26090(e)), of cannabis or cannabis products is expressly prohibited in the City of Santa Barbara.

#### **§9.44.040. Compliance with Laws.**

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state, or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the Permittees and Responsible Persons of a commercial cannabis business to ensure that a commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws,

including for as long as applicable, all state cannabis laws, any subsequently enacted state law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit.

#### **§9.44.050 Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

A. **A-LICENSE.** A license issued by the State of California under MAUCRSA for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

B. **APPLICANT.** Applicant shall include any individual or entity applying for a permit under this Chapter, including any officer, director, partner, or other duly authorized representative applying on behalf of an entity.

C. **BUSINESS LICENSE CERTIFICATE.** The certificate issued by the City's Treasury Division after payment of the business tax fee as set forth in Chapter 5.04 of the City of Santa Barbara Municipal Code.

D. **CANNABIS.** All parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

E. **CANNABIS CONCENTRATE.** Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

F. **CANNABIS PRODUCTS.** Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

G. **CANOPY.** All areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

H. **CAREGIVER OR PRIMARY CAREGIVER.** Has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

I. **CHIEF OF POLICE.** The Chief of the Santa Barbara Police Department, or his/her designee.

- J. **CITY.** The City of Santa Barbara, California.
- K. **CITY ADMINISTRATOR.** City Administrator of the City of Santa Barbara, including his or her designee.
- L. **CODE.** The City of Santa Barbara Municipal Code.
- M. **COMMERCIAL CANNABIS ACTIVITY.** Activities that include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, dispensing, or retail sale of cannabis and cannabis products as provided for in MAUCRSA.
- N. **COMMERCIAL CANNABIS BUSINESS.** Any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- O. **COMMERCIAL CANNABIS BUSINESS PERMIT.** The regulatory permit issued by the City of Santa Barbara pursuant to this Chapter to a commercial cannabis business, which is required before any commercial cannabis activity may legally be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all requirements of state law, this Chapter, the Santa Barbara Municipal Code, and any regulations adopted by the City governing the commercial cannabis activity at issue.
- P. **COMMUNITY DEVELOPMENT DIRECTOR.** The Director of the City's Community Development Department, or his/her designee.
- Q. **CULTIVATION.** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- R. **CULTIVATION SITE.** A location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- S. **CUSTOMER.** A natural person 21 year of age; or, a natural person 18 years of age or older who possesses a physician's recommendation.
- T. **DAY CARE CENTER.** Day care center has the same meaning as in Section 1596.76 of the Health and Safety Code.
- U. **DELIVERY.** The mobile commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer.
- V. **DISPENSING.** Any activity involving the retail sale of cannabis or cannabis products from a retailer.
- W. **DISTRIBUTION.** The procurement, sale, and transport of cannabis and cannabis products between licensees.
- X. **DISTRIBUTOR.** A person holding a valid commercial cannabis business permit for distribution issued by the City of Santa Barbara, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer.
- Y. **EDIBLE CANNABIS PRODUCT.** Cannabis product that is intended to be used, in whole or in part, for human consumption, and is not considered food. Edible cannabis product has the same meaning as Business and Professions Code section 26001.
- Z. **FIRE CHIEF.** The Chief of the Santa Barbara Fire Department, or his/her designee.

**AA. GROSS RECEIPTS.** Means the gross receipts of the preceding calendar year or part thereof or such other fiscal year approved by the administrator, and is defined as follows:

The total amount actually received or receivable from all sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, including the fair market value of samples or withdrawals from inventory for personal use or consumption by the permittee or any employee thereof, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

1. Cash discounts allowed and taken on sales.
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as "gross receipts".
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser (e.g. Sales Tax).
4. Any part of the sale price of property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts.
5. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.
6. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the administrator with the names and addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustee. (This definition supplements and is in addition to the definitions found in any provision of the City's Code, including without limitation Section 5.42.090 of the Santa Barbara Municipal Code. In the event of any conflict between this section and Santa Barbara Municipal Code section 5.42.090, section 5.42.090 shall prevail.)

**BB. LICENSE OR STATE LICENSE.** A permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

**CC. LICENSEE.** Any person holding a license issued by the State of California to conduct commercial cannabis business activities.

**DD. LIVE PLANTS.** Living cannabis flowers and plants including seeds, immature plants, and vegetative stage plants.

**EE. MANAGER.** Any person(s) designated by the commercial cannabis business to act as the representative or agent of the commercial cannabis business in managing day-to-day operations with corresponding liabilities and responsibilities, and/or

the person in apparent charge of the premises where the commercial cannabis business is located. Evidence of management includes, but is not limited to, evidence that the individual has the power to direct, supervise, or hire and dismiss employees, control hours of operations, create policy rules, or purchase supplies.

FF. **M-LICENSE.** A license issued by the state of California under MAUCRSA for commercial cannabis activity involving medicinal cannabis.

GG. **MANUFACTURE.** To compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

HH. **MANUFACTURED CANNABIS.** Raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

II. **MANUFACTURER.** A licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products. A manufacturer may also be a person that infuses cannabis in its products but does not perform its own extraction.

JJ. **MANUFACTURING SITE.** A location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Santa Barbara and, a valid state license as required for manufacturing of cannabis products.

KK. **MEDICINAL CANNABIS OR MEDICINAL CANNABIS PRODUCTS.** Cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215) or the Medical Marijuana Program Act of 2003, found at Sections 11362.5 and 11362.71 et seq. of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a valid and current identification card issued by a California licensed physician's recommendation.

LL. **OWNER.** Any of the following:

1. A person with an aggregate ownership interest of 10 percent or more in the person applying for a Santa Barbara commercial cannabis business permit, whether a partner, shareholder, member, or the like, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

MM. **PATIENT OR QUALIFIED PATIENT.** The same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.

NN. **PERMITTEE.** Any person to whom a current and valid City-issued commercial cannabis business permit has been issued.

OO. **PERSON.** Any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

**PP. PREMISES.** The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

**QQ. PURCHASER.** The customer who is engaged in a transaction with a Permittee for purposes of obtaining cannabis or cannabis products.

**RR. RESPONSIBLE PERSON.** All owners and operators of a commercial cannabis business, including the Permittee and all officers, directors, managers, or partners, and all persons with authority, including apparent authority, over the premises of the commercial cannabis business.

**SS. RETAILER-STOREFRONT.** A Storefront Retailer is a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers at a fixed location, including an establishment that also offers delivery of cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Santa Barbara authorizing the operation of a retailer, and a valid state license as required by state law to operate a retailer.

**TT. RETAILER-DELIVERY ONLY.** A Delivery Only Retailer is a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers, where the premises are closed to the public and sales are conducted exclusively by delivery, where a vehicle is used to convey the cannabis or cannabis products to the customer from a fixed location, and where the operator holds a valid commercial cannabis business permit from the City of Santa Barbara authorizing the operation of a retailer, and a valid state license as required by state law to operate a retailer.

**UU. SELL, SALE, RETAIL SALE, AND TO SELL.** Includes any transaction whereby, for any consideration or gross receipt, whether actual or intangible, title to cannabis or cannabis products are transferred from one person to another, the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, the providing of samples of cannabis and cannabis products to persons, and also includes the withdrawal for personal use or consumption of cannabis or cannabis products from inventory by the permittee or any employee thereof, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

**VV. STATE CANNABIS LAWS.** Laws of the State of California, which include California Health and Safety Code Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program); California Health and Safety Code Sections 26000 through 26211 (Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")); California Health and Safety Code Sections 26220 through 26231.2; the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General;

California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all state regulations adopted pursuant to MAUCRSA; and all other applicable laws of the state of California.

**WW. TESTING LABORATORY.** A laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
2. Licensed by the State of California.

**XX. TOPICAL CANNABIS.** A product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

**YY. TRANSPORT.** The transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

**ZZ. YOUTH CENTER.** The same meaning as in Section 11353.1 of the Health and Safety Code.

#### **§9.44.060. Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business.**

No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Santa Barbara including cultivation, manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis business permit from the City of Santa Barbara; (2) has a valid State of California Seller's Permit; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and commercial cannabis activities, including the duty to obtain any required state licenses.

#### **§9.44.070. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.**

The number of each type of commercial cannabis business that shall be permitted to operate in the City shall be established by resolution of the City Council.

A. This section is only intended to create a maximum number of commercial cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City must issue any or all of the commercial cannabis business permits if it is determined that it is in the best interest of the City to not issue the maximum number, or any number of permits, or if the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

B. Each year following the initial award of permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of commercial cannabis business permits which are authorized for issuance. The City Council, in its

discretion, may determine by resolution that the number of commercial cannabis permits should stay the same, be reduced, or be expanded.

**§9.44.080. Initial Application Procedure.**

A. The City Council will adopt by resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), including objective review criteria ("Review Criteria"). The resolution will authorize the City Administrator, or his or her designee, to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately issue commercial cannabis business permits.

B. Any person seeking to obtain a commercial cannabis business permit shall submit a written application to the City, signed under penalty of perjury, using the form adopted by the City for that purpose. The application shall be accompanied by a non-refundable application fee established by resolution of the City Council, to defray the costs incurred by the City in the application process set forth in this Chapter, and shall be commenced pursuant to the provisions of the City's Phase I and Phase II conditions set forth herein.

C. As part of the application process, the applicant shall be required to obtain all required land use approvals from the City's Community Development Department, including a certification from the Community Development Director certifying that the business is a permitted use in the zone where it is located, and the proposed site meets all of the requirements of Title 30 of this Code.

D. As a condition precedent to the City's issuance of a commercial cannabis business permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the commercial cannabis business on the owner's property.

E. Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every Applicant and Responsible Person of the Commercial Cannabis Business must submit fingerprints and other information deemed necessary by the Chief of Police for a background check by the Santa Barbara Police Department. No person shall be issued a permit to operate a Commercial Cannabis Business unless they have first cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Santa Barbara to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.

F. After the initial application review and background check, the City Administrator may make a final determination in accordance with this Chapter.

**§9.44.090. Permittee Selection Process.**

A. The applicants who are qualified under the Review Criteria, in each category of commercial cannabis business to be allowed in the City, will be reviewed by the City Administrator for a final determination to be made at a public hearing. An applicant who is deemed qualified is not guaranteed any particular result in the application process.

B. Phase I applications for permitting of any commercial cannabis business shall be filed with the City Administrator's, or his or her designee's office, no later than March 30, 2018. Applications shall be on forms provided by the City and shall be accompanied by a nonrefundable permit application fee set by resolution. Applications received after March 30, 2018 shall be considered but not given priority. The Phase I application shall be signed by one or more Manager under penalty of perjury and shall set forth in writing:

(i) Identity of the commercial cannabis business. A description of the statutory entity or business form that will serve as the legal structure for the collective or cooperative and a copy of its formation and organizing documents, including but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement. If a corporation, limited liability company, or a general or limited partnership is a stockholder owning more than 10% of the stock or membership interest of an applicant's commercial cannabis business, or is one or more of the partners in an applicant's commercial cannabis business, the applicant shall set forth the names and addresses of each of the partners, officers, directors, and stockholders of the corporation, limited liability company, or general or limited partnership.

(ii) Management Information.

a. The name, address, telephone number, title, and function(s) of each manager of the commercial cannabis business.

b. For each manager, a legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.

(iii) Applicant's Phone Number and Mailing Address. The phone number and address to which notice of action on the application and future correspondence is to be mailed.

C. Prior to the City Administrator's consideration of a Commercial Cannabis Business permit applicant, a meeting will be held so that the public may comment on the proposed commercial cannabis businesses. At least 10 days prior to the public meeting, notice of the public meeting will be sent to all property owners and occupants located within 300 feet of the proposed business locations of each of the qualified applicants to be considered by the City Administrator, or his or her designee(s).

D. Upon receiving a Phase I application for a commercial cannabis business permit, the City Administrator, or his or her designee(s), shall determine whether the application is complete. If the City Administrator determines that the application is incomplete or has been completed improperly, the City Administrator shall notify the

applicant. The City Administrator may grant the applicant an extension of up to ten days to complete the Phase I application. If the City Administrator determines that the Phase I application is complete and, on the face of the application is deemed qualified and acceptable by the City, the City shall notify the applicant of its selection of eligibility for Phase II of the City permit application for any commercial cannabis business.

E. If the City Administrator notifies the applicant that it may continue to Phase II in the application process, the applicant shall, no later than May 31, 2018, file a Phase II application with the City Administrator's office that includes a list of each misdemeanor and/or felony conviction, if any, of the applicant and the manager(s), whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.

F. The City Administrator may either deny or approve the Phase II candidates, and may select the candidates in each category of the Commercial Cannabis Businesses to be awarded Commercial Cannabis Business permits. The City Administrator's decision as to the selection of the prevailing candidates shall be final.

G. Issuance of a commercial cannabis business permit does not create a land use entitlement. Furthermore, no permit will be officially issued, and no applicant awarded a permit may begin operations, unless all of the state and local laws and regulations, including but not limited to the requirements of this Code and of the permit, have been complied with, and a copy of the applicant's state issued commercial license has been provided to the City Administrator. Until a state license is available and obtained by the Permittee, all Permittees must comply with all provisions of the State Cannabis Laws.

H. Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account the health, safety and welfare of the community. Applications may also be rejected for the following reasons:

1. The Application is received after designated time and date;
2. The Applicant has failed to submit a complete application, or the application is not organized in the required format;
3. The Applicant has failed to pay the application fee as required by this Chapter and by City Council resolution;
4. The Applicant has made a false, misleading or fraudulent statement or omission of fact in the application or in the application process;
5. Application contains excess or extraneous material not called for in the Application package;
6. The applicant, its owner, manager or a responsible person has, within the past three years, been sanctioned or fined for, enjoined from, or found guilty of or plead guilty or no contest to a charge of operating a commercial cannabis business or retailer in the state without the necessary permits and approvals from the applicable state and/or local jurisdictions;
7. The Applicant, an Owner, or Manager has been convicted within the past 10 years of any of the offenses listed in § 9.44.110.D; or
8. The applicant is under twenty-one years of age.

I. Applicants shall have no right to a commercial cannabis business permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.

J. If an application is denied, a new application may not be filed for one year from the date of the denial.

K. Prior to operating a commercial cannabis business, each person awarded a commercial cannabis business permit shall be required to pay a permit fee established by resolution of the City Council, to cover the costs of administering the commercial cannabis business permit program created in this Chapter.

**§9.44.100. Expiration of Commercial Cannabis Business Permits.**

Each commercial cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Commercial cannabis business permits may be renewed as provided in Section 9.44.120.

**§9.44.110 Revocation of Permits.**

A. Failure of a Permittee to comply with any requirement imposed by the provisions of this Code (or successor provision or provisions) including any rule, regulation, condition or standard adopted pursuant to this Chapter, or any term or condition imposed on the Commercial Cannabis Business permit, or any provision of state law, may be grounds for revocation of the permit.

B. Revocation of a state license issued under MAUCRSA shall be grounds for revocation of a commercial cannabis business permit issued by the City.

C. A permit may be revoked if the Permittee, its owner, manager or a responsible person has, within the past three years, been sanctioned or fined for, enjoined from, or found guilty of or plead guilty or no contest to a charge of operating a commercial cannabis business or retailer in the state without the necessary permits and approvals from the applicable state and/or local jurisdictions.

D. Conviction within the past 10 years of the Permittee, its owner or manager, including a plea of guilty or no contest, to any the following offenses shall be grounds for revocation of a commercial cannabis business permit issued by the City:

1. A violent felony, as specified in Section 667.5(c) of the Penal Code.
2. A serious felony, as specified in Section 1192.7(c) of the Penal Code.
3. A felony involving fraud, deceit, or embezzlement.
4. A felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
5. A felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
6. A felony or misdemeanor involving the illegal possession for sale, manufacture, transportation, or cultivation of a controlled substance occurring after January 1, 2016.

E. If the City Administrator determines that a ground for revocation of a commercial cannabis business permit exists, the City Administrator shall give notice of revocation by dated written notice to the Permittee.

F. The City Administrator shall cause the Permittee to be served, either personally or by first class mail addressed to the address listed on the application, with a written notice to revoke a permit. This notice shall state the reasons for the action, the

effective date of the decision, the right of the Permittee to appeal the decision to the City Council, and that the City Administrator's decision will be final if no written appeal is timely submitted to, and received by, the City, pursuant to the provisions in Section 9.44.140 of this Chapter. This notice will be effective within 10 calendar days from the date of service of the notice. If an appeal is timely and properly filed in accordance with Section 9.44.140, then the effective date of the notice is stayed.

**§9.44.120. Renewal Applications.**

A. An application for renewal of a commercial cannabis business permit shall be filed with the City Administrator's office at least 60 calendar days prior to the expiration date of the current permit.

B. Any Permittee submitting an application less than 60 days before its expiration shall be required to pay a late renewal application fee, as established by Resolution of the City Council. Any renewal application filed less than 30 days before its expiration may be rejected by the City on that basis alone.

C. The renewal application shall contain all the information required for new applications.

D. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.

E. An application for renewal of a commercial cannabis business permit may be denied if any of the following exists:

1. Any of the grounds for revocation under section 9.44.110.
2. The commercial cannabis business permit is suspended or revoked at the time of the application.
3. The commercial cannabis business has not been in regular and continuous operation in the four months prior to the renewal application.
4. The permittee fails or is unable to renew its State of California license.
5. If the Permittee has made a false, misleading or fraudulent statement or omission of fact in the renewal application.

F. The City Administrator is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Administrator is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Administrator shall be handled pursuant to Section 9.44.140.

G. If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one year from the date of the rejection.

**§9.44.130. Effect of State License Suspension, Revocation, or Termination.**

A. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license.

B. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Santa Barbara.

C. Permittee shall notify the City Administrator in writing within five days of suspension or revocation of a license issued by the State of California, or by any of its departments or divisions.

#### **§9.44.140. Appeals**

A. Notice of, and Time to, Appeal, and Effect of Timely Appeal.

1. A Permittee of a commercial cannabis business may appeal any decision of the City Administrator, by filing with the City Clerk a written notice of appeal within 10 calendar days from the date of service of the notice issued by the City Administrator of his or her decision.

2. The notice of appeal shall be in writing and signed by the person making the appeal ("appellant"), or his or her legal representative, and shall contain the following:

a. Name, address, and telephone number of the appellant.  
b. Specify that the person is appealing from a specified decision, action, or a particular part thereof, made by the City Administrator.

c. Include a true and correct copy of the notice issued by the City Administrator for which the appellant is appealing.

d. State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the City Council, or any appointed hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.

e. All documents or other evidence pertinent to the appeal that the appellant requests the City Council to consider at the hearing.

3. Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to appeal the notice issued by the City Administrator. In this event, City Administrator's notice of revocation, nonrenewal, suspension and/or other action is final and binding.

4. In the event a written notice of appeal is timely filed, the nonrenewal, suspension, revocation, or other action shall not become effective until a final decision has been rendered and issued by the City Council. If no appeal is timely filed in the event of a decision of nonrenewal, the commercial cannabis business permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision of suspension or revocation, the suspension or revocation shall become effective upon the expiration of the period for filing a written notice of appeal.

B. Review by City Council; Appeal Hearing and Proceedings.

1. All appellants shall, subject to filing a timely written notice of appeal, obtain review thereof before the City Council. The administrative appeal shall be scheduled no later than 60 calendar days, and no sooner than 21 calendar days, after receipt of a timely filed notice of appeal. The appellant(s) listed on the written notice of appeal shall be notified in writing of the date, time, and location of the hearing at least 10 calendar days before the date of the hearing ("notice of appeal hearing").

2. All requests by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than three business days before the date scheduled for the hearing. The City Council may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more than 30 calendar days without stipulation by all parties.

3. The City Council shall preside over the hearing on appeal.

4. At the date, time and location set forth in the notice of appeal hearing, the City Council shall hear and consider the testimony of the appellant(s), City staff, and/or their witnesses, as well as any documentary evidence properly submitted by these persons.

5. The following rules shall apply at the appeal hearing:

a. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.

b. The City bears the burden of proof to establish the grounds for denial, nonrenewal, suspension or revocation by a preponderance of the evidence.

c. The issuance of the City Administrator's notice constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension or revocation, and City or County personnel who significantly took part in the investigation, which contributed to the City Administrator issuing a notice of decision, may be required to participate in the appeal hearing.

d. Each party shall have the right to introduce evidence, to present and examine witnesses, and to cross-examine opposing witnesses who have testified under direct examination. The City Council may also call witnesses, and examine any person who introduces evidence or testifies at any hearing.

e. The City Council may accept and consider late evidence not submitted initially with the notice of appeal upon a showing by the appellant of good cause. The City Council shall determine whether a particular fact or facts amount to good cause on a case-by-case basis.

f. The appellant may bring a language interpreter to the hearing at his or her sole expense.

g. The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording.

6. If the appellant, or his or her legal representative, fails to appear at the appeal hearing, the City Council may cancel the appeal hearing and send a notice thereof to the appellant by first class mail to the address(es) stated on the notice of appeal. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the City Administrator's notice of decision is final and binding.

C. Decision of City Council or Appointed Hearing Officer.

1. Following the conclusion of the appeal hearing, the City Council shall determine if any ground exists for the nonrenewal, suspension or revocation of a commercial cannabis business permit or other action. If the City Council determines that no grounds for denial, nonrenewal, suspension, revocation, or other action exist, the City

Administrator's notice of decision shall be deemed cancelled. If the City Council determines that one or more of the reasons or grounds enumerated in the notice of decision exists, a written final decision shall be issued by the City Clerk within ten days, which shall at minimum contain the following:

a. A finding and description of each reason or grounds for nonrenewal, suspension, revocation, or other action that exist.

b. Any other finding, determination or requirement that is relevant or related to the subject matter of the appeal.

2. The decision of the City Council is final and conclusive. The written final decision shall also contain the following statement: "The decision of the City Council [or appointed hearing officer], is final and binding. Judicial review of this decision is subject to Chapter 1.30 of the Code."

3. A copy of the final decision shall be served by first class mail on the appellant. If the appellant is not the owner of the real property in which the commercial cannabis business is located, or proposed to be located, a copy of the Final Decision may also be served on the property owner by first class mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed Final Decision shall not invalidate any action or proceeding by the City pursuant to this Chapter.

#### **§9.44.150 Commercial Cannabis Business Permit – Nonassignable and Nontransferable.**

A. A commercial cannabis business permit issued under this Chapter is valid only as to the Permittee and approved location, and is therefore nontransferable to other persons, projects or locations.

B. No commercial cannabis business permit may be sold, transferred or assigned by a Permittee, or by operation of law, to any other person, persons, or entities. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void, except as set forth in this Chapter.

#### **§9.44.160 Change in Location of Commercial Cannabis Business**

No Permittee shall change the location of the commercial cannabis business specified in the commercial cannabis business permit until any such change of location is approved by the City Administrator. Within 90 days of the effective date of this Chapter, the City Administrator shall adopt a process (to include any necessary forms and procedures) for the relocation of commercial cannabis businesses that includes the following:

A. The Permittee shall submit a change of location application to the City at least 60 days prior to the proposed change.

B. The proposed location shall meet all the requirements under this Code, including but not limited to this Chapter and Title 30.

C. The proposed location shall be reviewed and evaluated using review criteria as referenced in section 9.44.090.

D. The relocation of a Permittee's commercial cannabis business shall be subject to the prior review and approval by the City Administrator at a public meeting.

E. No later than 10 days prior to the public meeting, notice of the proposed location for the relocation of any commercial cannabis business will be sent to all property owners and occupants located within three-hundred (300) feet of the proposed premises.

#### **§9.44.170 Changes in Ownership of Commercial Cannabis Business**

A. No Permittee shall transfer ownership or control of a commercial cannabis business unless and until the proposed new owner submits all required application materials and pays all applicable fees, and independently meets the requirements of this Chapter such as to be entitled to the issuance of an original commercial cannabis business permit issued by the City Council.

B. A substantial change in the ownership of a permittee business entity (changes that result in a change of 51% or more of the original ownership), must be approved by the City Administrator after completion of the application process under this Chapter, including evaluation under the Review Criteria referenced in Section 9.44.090.

C. No Permittee may avail themselves of the provisions of this Section if the City Administrator has notified the permittee that the commercial cannabis business permit has been or may be suspended, revoked, or not renewed.

D. Failure to comply with this section is grounds for revocation of a commercial cannabis business permit.

E. Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

#### **§9.44.180 Change in Ownership when the Permittee is a Partnership or Corporation.**

A. One or more proposed partners in a partnership granted a commercial cannabis business permit may make application to the City Administrator, together with the fee established by the City Council, to amend the original application, providing all information as required for partners in the first instance and, upon approval thereof, the transfer of the interests of one or more partners to the proposed partner or partners may occur. If the Permittee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case, the commercial cannabis business permit, upon notification to the City Administrator, shall be placed in the name of the surviving partners.

B. If the commercial cannabis business permit is issued to a corporation, stock may be sold, transferred, issued, or assigned to stockholders who have been named on the application. If 51% or more of any stock is sold, transferred, issued, or assigned to a person not listed on the application as a stockholder, the permit shall be deemed terminated and void; provided, however, the proposed stock purchaser transferee may submit to the City Administrator, together with the fee established by the City Council, an application to amend the original application providing all information as required for stockholders in the first instance under this Chapter, and, upon approval thereof, the transfer may then occur.

C. All proposed changes in ownership, with the exception of transfers occurring due to death of a partner or stockholder as described in this section, must be

submitted to the City 30 calendar days prior to the change, along with any proposed organizational documents reflecting said changes. If the change in ownership is approved by the City Administrator all organizational documents must be submitted the City Administrator within 30 calendar days of being executed, or if applicable, filed with the Secretary of State.

**§9.44.190 Changes in Information on Application or Alterations To Approved Facility.**

A. The Permittee shall advise the City Administrator within 15 calendar days of all changes of name or designation under which the business is to be conducted. The change of name or designation shall be accompanied by a non-refundable fee established by resolution of the City Council to defray the costs of reissuance of the commercial cannabis business permit.

B. No Permittee shall operate, conduct, manage, engage in, or carry on the business of a commercial cannabis business under any name other than the name of the commercial cannabis business specified in the permit.

C. All required City approvals, plan approvals, and permits must be obtained before causing, allowing, or permitting alterations to, and/or extensions or expansions of, the existing building(s), structure(s), or portions thereof, approved as a location for a commercial cannabis business. Said alterations, extensions, or expansions shall comply with all applicable laws, regulations and standards, including those concerning building safety and occupancy.

D. Within 15 calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this chapter, the Permittee shall notify the City on a form approved by the City Administrator for review along with a permit amendment fee, as adopted by Resolution of the City Council.

**§9.44.200. City Business Tax Certificate.**

Prior to commencing operations, a Permittee of a commercial cannabis business shall obtain a City of Santa Barbara business tax certificate.

**§9.44.210. Permits and Inspections Prior to Commencing Operations.**

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory inspection of the premises, and must obtain all required building permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. The Permittee shall also obtain all required Building Safety Division approvals, Fire Department approvals, Health Department approvals and any other permit or approval required by this Code or applicable law.

**§9.44.220. Limitations on City's Liability.**

To the fullest extent permitted by law, the City of Santa Barbara shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business

permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

A. They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold harmless the City of Santa Barbara, and its officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.

B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City's Risk Manager.

C. Reimburse the City of Santa Barbara for all costs and expenses including, but not limited to, attorney fees and costs and court costs which the City of Santa Barbara may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of the applicant's commercial cannabis activity. The City of Santa Barbara may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

#### **§9.44.230 Records and Recordkeeping.**

A. Each owner and operator of a commercial cannabis business shall maintain an accurate and complete set of books, records, and other information sufficient to allow the City, readily available within an electronic or printed format available for onsite or offsite review, sufficient to allow the City to determine the correct amount of value or correct amount of any tax, license, permit, or fee administered by the City, or other records or information as may be necessary for the proper administration of any matters under the jurisdiction of the City. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the commercial cannabis business' revenue and number of sales during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross receipts for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business' operations conducted by an independent certified public accountant, or agent of the City. Each permittee shall be subject to a regulatory compliance review and financial audit, as determined by the City Administrator or his or her designee.

B. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Administrator upon a reasonable request.

C. All records collected by a Permittee pursuant to this Chapter shall be maintained for a minimum of seven years and shall be made available by the Permittee to the agents, designees, or employees of the City of Santa Barbara upon request, except that private medical records shall be made available only pursuant to a properly executed search warrant, subpoena, or court order, if applicable.

D. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing, production, dispensing, manufacturing, laboratory testing, and distribution processes until purchase as set forth MAUCRSA.

E. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow City of Santa Barbara officials, or its agents or designees, to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities as defined herein above, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the City's request, and shall not include or be coupled with in any manner, records which would be the subject of any such books, records, accounts, or any other relevant data or documents to any restrictions under HIPAA, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

#### **§9.44.240 Security Measures.**

A. All permitted commercial cannabis businesses shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the Chief of Police, these security measures shall include, but shall not be limited to, all of the following:

1. Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.

2. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.

3. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

4. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Chief of Police, and

that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police upon request. Video recordings shall be maintained for a minimum of 60 days, and shall be made available to the Chief of Police upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

5. Sensors shall be installed to detect entry and exit from all secure areas.

6. Panic buttons shall be installed in all commercial cannabis businesses.

7. Having a professionally installed, maintained, and monitored alarm system.

8. Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.

9. Security personnel shall be on site during regular business hours, and the Police Chief may require additional security as warranted. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services and shall be subject to the prior review and approval of the Chief of Police, with such approval not to be unreasonably withheld.

10. Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

B. Each commercial cannabis business shall identify a designated security representative/liaison to the City of Santa Barbara, who shall be reasonably available to meet with the Chief of Police regarding any security related measures and/or operational issues.

C. As part of the application and permitting process, each commercial cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.

D. The commercial cannabis business shall cooperate with the City whenever the City Administrator makes a request, upon reasonable notice to the commercial cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.

E. A commercial cannabis business shall notify the Chief of Police within 24 hours after discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be determined by the security regulations promulgated by the Chief of Police.

2. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.

3. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.

4. Any other breach of security.

4. Any other breach of security.

**§9.44.250 Restriction on Alcohol & Tobacco Sales.**

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the premises of a commercial cannabis business.

**§9.44.260 Fees and Charges.**

A. No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council which may be amended from time to time.

B. All commercial cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

**§9.44.270 Operating Requirements Applicable to all Commercial Cannabis Businesses.**

A. No commercial cannabis business shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time of issuance of a commercial cannabis business permit from the City. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school or other protected business to the closest property line of the lot on which the commercial cannabis business is located, without regard to intervening structures.

B. Commercial cannabis businesses may operate only during the hours established by Resolution of the City Council and specified in the commercial cannabis business permit issued by the City.

C. Cannabis shall not be consumed by anyone on the premises of any commercial cannabis business.

D. No cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

E. Each commercial cannabis business shall have in place an electronic point-of-sale software system, which provides and includes inventory tracking and management capabilities, and shall be utilized to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight, purchase price, mark-up percentages, and gross receipts derived from the wholesale or retail sale thereof) and other information which may be deemed necessary by the City. The commercial cannabis business shall

ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Administrator prior to being used by the permittee.

F. All cannabis and cannabis products sold, tested, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with State and local regulations.

G. No physician shall be permitted in any commercial cannabis business at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or medicinal cannabis identification card where applicable.

H. All commercial cannabis retailers shall have a Manager on the premises at all times during hours of operation.

I. Each commercial cannabis business shall provide the City Administrator with the name, telephone number (both land line and mobile, if available) of an on-site manager or owner to whom emergency notice may be provided at any hour of the day.

J. Signage and Notices.

1. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of state law and the Santa Barbara Municipal Code, including, but not limited to, the requirements for a City sign permit.

2. The premises of each commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.

K. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business, and shall not be allowed to serve as a driver for a mobile delivery service, except as provided for below in section 9.44.180 pertaining to sales of cannabis for medicinal use. It shall be unlawful and a violation of this Chapter to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.

L. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or around the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Community Development Director determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally.

2. An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside

the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

M. The original copy of the commercial cannabis business permit issued by the City pursuant to this Chapter and the City issued business tax certificate shall be posted inside the commercial cannabis business in a location readily visible to the public.

N. The Permittee of a commercial cannabis business shall prohibit loitering by persons outside on the premises.

O. Prior to the operation of a commercial cannabis business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits and approvals from the relevant City department or division which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

P. Nothing in this Chapter exempts a commercial cannabis business from complying with all applicable local, state and federal laws and regulations pertaining to persons with disabilities.

Q. No Commercial Cannabis Business may discriminate or exclude patrons in violation of local, state and federal laws and regulations.

#### **§9.44.280 Operating Requirements for Storefront Retail Facilities.**

A. No commercial cannabis retailer offering storefront purchase shall be located within 1000 feet from another commercial cannabis storefront retailer. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of one commercial cannabis storefront retailer to the closest property line of the lot on which another commercial cannabis business is located without regard to intervening structures.

B. Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the commercial medicinal cannabis business shall obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or Identification Card as described in Health and Safety Code sections 11362.71 through 11362.77, as may be amended from time to time, on site for period of not less than seven years.

C. Storefront retailers also providing delivery shall comply with the requirements pertaining to deliveries in section 9.44.290 of this Chapter.

D. Commercial cannabis retailers selling medicinal cannabis shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid doctor's recommendation. Adult use retailers shall verify the age of all customers to ensure persons under the age of twenty-one (21) are not permitted on the premises. Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area.

E. Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale on-site in the retail sales area of the retailer.

F. All restroom facilities shall remain locked and under the control of management.

G. A cannabis storefront retailer may not sell, give away, or donate specific devices, contrivances, instruments, or paraphernalia necessary for consuming cannabis or cannabis products, including but not limited to rolling papers and related tools, pipes, water pipes, and vaporizers.

H. A cannabis storefront retailer shall notify qualified patients, primary caregivers, and customers of the following verbally (or by written agreement) and by posting of a notice or notices conspicuously within the permitted premises:

1. "The sale or diversion of cannabis or cannabis products without a permit issued by the City of Santa Barbara is a violation of State law and the Santa Barbara Municipal Code."

2. "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from [Insert Name of Licensee] is a crime and can lead to arrest."

3. "Patrons must immediately leave the commercial cannabis business and not consume cannabis or cannabis products in public view or in any place not lawfully permitted. Staff shall monitor the location and vicinity to ensure compliance."

4. "Commercial cannabis businesses shall post viewable, written warnings that the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."

5. "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer."

#### **§9.44.290 Operating Requirements for Delivery-Only Retailers.**

A. Delivery-Only Retailers may only deliver to customers within a city or county that does not expressly prohibit delivery by ordinance.

B. Security plans developed pursuant to this Chapter shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.

C. A Delivery-Only Retailer shall facilitate the vehicle dispensing of cannabis or cannabis products with a technology platform owned by or licensed to the Delivery-Only Retailer that uses point-of-sale technology to track, and database technology to record and store the following information for each transaction involving the exchange of cannabis or cannabis products between the Permittee and qualified patient, primary caregiver, or customer:

1. The identity of the individual dispensing cannabis or cannabis products on behalf of the licensee;

2. The identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the licensee;

3. The type and quantity of cannabis or cannabis products dispensed and received;

4. The gross receipts charged by the licensee and received by the individual dispensing cannabis or cannabis products on behalf of the licensee for the cannabis or cannabis products dispensed and received; and

5. The location or address where the sale or retail sale took place or closed.

D. A Permittee shall maintain a database and provide a list of the individuals and vehicles authorized to conduct vehicle dispensing, and a copy of the valid California driver's license issued to the driver of any such vehicle on behalf of the Permittee to the Chief of Police.

E. Individuals authorized to conduct deliveries on behalf of the Permittee shall have a valid California Driver's License and be a minimum of twenty-one years of age or older.

F. Individuals making deliveries of cannabis or cannabis products on behalf of the Permittee shall maintain a physical copy of the delivery request (and/or invoice) and shall make it available upon the request of agents or employees of the City of Santa Barbara requesting documentation.

G. During delivery, a copy of the Permittee's Commercial Cannabis Business Permit shall be in the vehicle at all times, and the driver shall make it available upon the request of agents or employees of the City of Santa Barbara requesting documentation.

H. A Permittee shall only permit or allow delivery of cannabis or cannabis products in a vehicle that is (i) insured at or above the legal requirement in California; (ii) capable of securing (locking) the cannabis or cannabis products during transportation; (iii) capable of being temperature controlled if perishable cannabis or cannabis products is being transported; and (iv) does not display advertising or symbols visible from the exterior of the vehicle that suggest the vehicle is used for cannabis delivery or affiliated with a cannabis retailer.

I. A Delivery-Only Retailer shall facilitate deliveries with a technology platform owned by or licensed to the Delivery-Only Retailer that uses Global Positioning System technology to track, and database technology to record and store the following information:

1. The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer departed the licensed premises.

2. The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer completed vehicle dispensing to the qualified patient, primary caregiver, or customer.

3. The time that the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer returned to the licensed premises.

4. The route the individual conducting vehicle dispensing on behalf of the Delivery-Only Retailer traveled between departing and returning to the licensed premises to conduct vehicle dispensing.

5. For each individual vehicle dispensing transaction, the identity of the individual conducting deliveries on behalf of the Delivery-Only Retailer licensee.

6. For each individual delivery transaction, the vehicle used to conduct vehicle dispensing on behalf of the Delivery-Only Retailer licensee.

7. For each individual vehicle dispensing transaction, the identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the Delivery-Only Retailer.

8. For each individual vehicle dispensing transaction, the type and quantity of cannabis or cannabis products dispensed and received.

9. For each individual vehicle dispensing transaction, the gross receipts charged by the Delivery-Only Retailer and received by the individual conducting deliveries on behalf of the Delivery-Only Retailer for the cannabis or cannabis products dispensed and received.

J. The individual making deliveries on behalf of the Delivery-Only Retailer shall personally verify for each individual vehicle dispensing transaction (i) the identity of the qualified patient, primary caregiver, or customer receiving cannabis or cannabis products from the Delivery-Only Retailer and (ii) the validity of the qualified patient's recommendation from a physician to use cannabis for medical purposes or primary caregiver's status as a primary caregiver for the particular qualified patient, and shall maintain a copy of the physician recommendation or Identification Card, as described in Health and Safety Code sections 11362.71 through 11362.77, as may be amended from time to time, at its permitted business location for period of not less than seven years.

#### **§9.44.300 Operating Requirements for Cultivation Facilities.**

A. Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors, and outdoor cultivation is prohibited.

B. From a public right-of-way, there should be no exterior evidence of cannabis cultivation except for any signage authorized by this Code.

C. The general public is not permitted on the cannabis cultivation licensed premises except for the agents, applicants, managers, employees, and volunteers of the cannabis cultivation Permittee and agents or employees of the City of Santa Barbara.

D. A Permittee shall only be allowed to cultivate the square feet of canopy space permitted by state law and in the permit issued for the premises.

E. Cannabis cultivation shall be conducted in accordance with state and local laws related to electricity, water usage, water quality, discharges, and similar matters.

F. A cannabis cultivation Permittee shall comply with all applicable federal, state and local laws and regulations regarding use and disposal of pesticides and fertilizers.

G. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

H. The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, neighboring properties, and the end users of the cannabis being cultivated; to protect the environment from harm to waterways, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

I. Prior to transportation, a cannabis cultivation licensee shall package and seal all cannabis or cannabis products in tamper-evident packaging and use a unique identifier, such as a batch and lot number or bar code, to identify and track the cannabis or cannabis products.

J. All applicants for a commercial cannabis business permit pertaining to cannabis cultivation shall submit the following in addition to the information generally otherwise required for a commercial cannabis business permit:

1. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; a description of the cultivation activities and schedule of activities during each month of growing and harvesting; or an explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.

2. A description of a legal water source, irrigation plan, and projected water use.

3. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related Codes.

4. Plan for addressing odor and other public nuisances that may derive from the cultivation site.

#### **§9.44.310 Operating Requirements for Cannabis Manufacturing Businesses.**

A. From a public right-of-way, there should be no exterior evidence of cannabis manufacturing except for any signage authorized by this Chapter.

B. The general public is not permitted on the cannabis manufacturing premises except for the agents, applicants, managers, employees, and volunteers of the cannabis manufacturing licensee and agents or employees of the City of Santa Barbara.

C. All cannabis manufacturing shall comply with the standards set by state law.

D. Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Santa Barbara in containers that exceed the amount which is approved by the Fire Chief and authorized by the commercial cannabis business permit. Each site or parcel subject to a commercial cannabis business permit shall be limited to a total number of tanks as authorized by the Fire Chief on the property at any time.

E. Cannabis manufacturing facilities may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human-related toxicity approved by the Fire Chief. These solvents must be of at least ninety-nine percent purity and any extraction process must use them in a professional grade, closed loop extraction system designed to recover the solvents and work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

F. If an extraction process uses a professional grade closed loop CO<sub>2</sub> gas extraction system, every vessel must be certified by the manufacturer for its safe use. Closed loop systems for compressed gas extraction must be commercially manufactured and bear a permanently affixed and visible serial number.

G. Certification from an engineer licensed by the State of California must be provided to the Fire Chief for a professional grade closed loop system used by any commercial cannabis manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:

1. The American Society of Mechanical Engineers (ASME);

2. American National Standards Institute (ANSI);
3. Underwriters Laboratories (UL); or
4. The American Society for Testing and Materials (ASTM).

H. The certification document must contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.

I. Professional closed loop systems, other equipment used, the extraction operation, and all related facilities must be approved for their use by the Fire Chief and meet any required fire, safety, and building code requirements specified in the California Building and Fire Codes, as adopted by the City.

J. Cannabis Manufacturing Facilities may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

K. Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

L. Cannabis Manufacturing Facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.

M. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvents and gases safely.

N. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

#### **§9.44.320. Operating Requirements for Cannabis Distribution.**

A. From a public right-of-way, there should be no exterior evidence of Cannabis Distribution except for any signage authorized by this Chapter.

**B. Operational Requirements.**

1. The general public is not permitted on the Cannabis Distribution licensed premises except for the agents, applicants, managers, employees, and volunteers of the Cannabis Distribution licensee and agents or employees of the City of Santa Barbara.

2. A Cannabis Distribution licensee shall only procure, sell, or transport cannabis or cannabis products that are packaged and sealed in tamper-evident packaging using unique identifiers, such as batch and lot numbers or bar codes, to identify and track the cannabis or cannabis products.

3. A Cannabis Distribution licensee shall maintain a database and provide a list of the individuals and vehicles authorized to conduct transportation on behalf of the Cannabis Distribution licensee to the City.

4. Individuals authorized to conduct transportation on behalf of the Cannabis Distribution licensee shall have a valid California Driver's License.

5. Individuals transporting cannabis or cannabis products on behalf of the Cannabis Distribution licensee shall maintain a physical copy of the transportation

request (and/or invoice) and shall make it available upon request of agents or employees of the City of Santa Barbara requesting documentation.

6. During transportation, the individual conducting transportation on behalf of the Cannabis Distribution licensee shall maintain a copy of the Cannabis Distribution licensee's Commercial Cannabis Business Permit and shall make it available upon the request of agents or employees of the City of Santa Barbara requesting documentation.

7. A Cannabis Distribution licensee facility shall only transport cannabis or cannabis products in a vehicle that is (i) insured at or above the legal requirement in California, (ii) capable of securing (locking) the cannabis or cannabis products during transportation, and (iii) capable of being temperature controlled if perishable cannabis products are being transported.

**§9.44.330. Operating Requirements for Cannabis Testing.**

- A. Cannabis Testing shall take place within an enclosed locked structure.
- B. From a public right-of-way, there should be no exterior evidence of Cannabis Testing except for any signage authorized by this Chapter.
- C. All cannabis testing shall be performed in accordance with state law.
- D. A Cannabis Testing Permittee shall adopt a standard operating procedure using methods consistent with general requirements established by the International Organization for Standardization, specifically ISO/IEC 17025, to test cannabis or cannabis products, and shall operate in compliance with state law at all times.
- E. A Cannabis Testing Permittee shall be accredited by a body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
- F. A Cannabis Testing Permittee shall establish standard operating procedures that provide for adequate chain of custody controls for samples transferred to the testing laboratory for testing.
- G. A Cannabis Testing Permittee shall destroy the remains of samples of any cannabis or cannabis product upon completion of analyses. Destruction shall be done in a manner compliant with state law.
- H. Any testing that requires the use of solvents for extraction must comply with section 9.44.310 of the Code.

**§9.44.340 Promulgation of Regulations, Standards and Other Legal Duties.**

- A. In addition to any regulations adopted by the City Council, the City Administrator is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- B. Regulations shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.
- C. Regulations promulgated by the City Administrator shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply

with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Administrator.

**§9.44.350 Community Relations.**

A. Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.

B. During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall, if requested by the City Administrator, attend a quarterly meeting with the City Administrator and other interested parties as deemed appropriate by the City Administrator, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Administrator when and as requested by the City Administrator.

**§9.44.360 Fees Deemed Debt to City of Santa Barbara.**

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Santa Barbara that is recoverable in any manner authorized by this Code, state law, or in any court of competent jurisdiction.

**§9.44.370 Responsibility for Violations.**

Permittees and their Responsible Persons and Managers shall be responsible for violations of the laws of the State of California or of the City of Santa Barbara Municipal Code, whether committed by the permittee, or any employee or agent of the permittee, which violations occur on the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence. Any act or omission of any employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the Permittee for purposes of determining whether the permit shall be revoked, suspended, or not renewed.

**§9.44.380 Inspections.**

A. The City Administrator, Chief of Police, Fire Marshal or City personnel charged with enforcing the provisions of the Santa Barbara Municipal Code may enter the location of a commercial cannabis business at any time during regular business hours, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.

B. It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy,

deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.

**§9.44.390 Violations and Penalties.**

A. Any person who violates any provision of this Chapter shall be subject to the penalties set forth in Chapter 1.28 of the Municipal Code.

B. It is unlawful for any Permittee of a commercial cannabis business, or its Responsible Person, Manager or any other responsible person employed by or working in concert with them or on their behalf, whether directly or indirectly, to continue to operate, conduct, or maintain a commercial cannabis business after the City-issued commercial cannabis business permit has been suspended or revoked, or not renewed, pursuant to a non-contested notice of decision issued by the City Administrator, or after the issuance of a Final Order after an appeal hearing.

C. Any commercial cannabis business operated, conducted, or maintained contrary to the provisions of this Chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the City may, in addition to or in lieu of prosecuting a criminal action, commence an administrative or civil action(s) or proceeding(s), for the abatement, removal and enjoinder thereof, in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such commercial cannabis business and restrain and enjoin any person from operating, conducting or maintaining a commercial cannabis business contrary to the provisions of this Chapter.

D. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

E. Whenever in this Chapter any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

F. The penalties set forth herein are cumulative and in addition to all other remedies, violations, and penalties set forth in this Chapter, the City's Code, or in any other ordinance, laws, rules or regulations of the City, County, or the State of California.

**§9.44.400. Reserved.**

**§9.44.410. Effect on Other Ordinances.**

With the exception of medical marijuana storefront commercial cannabis business permits issued pursuant to Section 30.185.250 of the Municipal Code, the provisions of this Chapter shall control regulation of commercial cannabis businesses as defined herein if other provisions of the Code conflict therewith. This Chapter shall not, however, relieve any person of his or her duty to comply with such laws if additional obligations, duties, or prohibitions are imposed thereby.

**SECTION 3. Severability and Interpretation.**

A. Severability. If any provision of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

B. Interpretation. This Ordinance shall be construed to confer upon the City the maximum power and authority allowed by state and federal law. In the event state or federal law is found to conflict with and preempt any provision of this Ordinance, or in the event state or federal law changes to conflict with and preempt any provision of this Ordinance, the remaining and non-conflicting provisions of this Ordinance shall be interpreted and construed to give maximum effect to the remaining and non-conflicting provisions so as to effectuate, to the greatest extent possible, the purposes and restrictions expressed herein.

**SECTION 4: Interim Ordinance Nos. 5763 and 5774**

On September 6, 2016, the Council of the City of Santa Barbara adopted Ordinance No. 5763, an interim emergency ordinance prohibiting non-medical marijuana businesses within the City for 45 days pursuant to Government Code section 65858 and City Charter section 511. On October 18, 2016, after a duly notice public hearing, Council determined that in order to protect the public health, safety and welfare it was necessary to extend Ordinance No. 5763. To that effect, Council adopted Ordinance No. 5774 extending the prohibition against non-medical marijuana businesses for 22 months and 15 days or until September 5, 2018. To the extent any challenges pertaining to the enforceability or validity of all or a portion of this ordinance are raised upon its adoption and enactment, Ordinance No. 5774 shall remain in effect as to the challenged provisions.

**SECTION 5: Effective Date**

Pursuant to Section 514 of the City Charter, this Ordinance shall take effect thirty (30) days after its adoption. Pursuant to Section 512 of the City Charter, the City Clerk shall cause the ordinance to be published at least once in the official newspaper within fifteen (15) days after adoption, by title only, and the publication shall state that the full text of the ordinance shall be available to the public at the City Clerk's Office.

**ORDINANCE NO. 5813**

STATE OF CALIFORNIA                     )  
  )  
COUNTY OF SANTA BARBARA         ) ss.  
  )  
CITY OF SANTA BARBARA                )

I HEREBY CERTIFY that the foregoing ordinance was introduced on November 21, 2017, and was adopted by the Council of the City of Santa Barbara at a meeting held on December 5, 2017, by the following roll call vote:

AYES:                     Councilmembers Gregg Hart, Frank Hotchkiss, Cathy Murillo, Bendy White; Mayor Helene Schneider

NOES:                    Councilmembers Jason Dominguez, Randy Rowse

ABSENT:                 None

ABSTENTIONS:       None

IN WITNESS WHEREOF, I have hereto set my hand and affixed the official seal of the City of Santa Barbara on December 6, 2017.

  
\_\_\_\_\_  
Sarah P. Gorman, CMG  
City Clerk Services Manager



I HEREBY APPROVE the foregoing ordinance on December 6, 2017.

  
\_\_\_\_\_  
Helene Schneider  
Mayor